

MDR Tracking Number: M5-04-3766-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 07-01-04. Dates of service 05-14-03 through 06-16-03 were untimely filed per Rule 133.308(e)(1) and will not be reviewed.

The IRO reviewed office visits and chiropractic manipulative treatment rendered from 08-11-03 through 11-03-03 that was denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of issues of medical necessity. The IRO determined that the chiropractic manipulative treatments **were** medically necessary. The IRO determined that the office visits **were not** medically necessary. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

**ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 08-11-03 through 11-03-03 in this dispute.

This Findings and Decision and Order are hereby issued this 23<sup>rd</sup> day of September 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

September 2, 2004

**AMENDED LETTER 09/10/04**

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE: Injured Worker:  
MDR Tracking #: M5-04-3766-01  
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. TMF's health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

#### Clinical History

This 39 year-old male suffered an injury to his low back on \_\_\_\_, resulting in a diagnosis of lumbar disc herniation, facet syndrome, and lumbar radiculitis. He has been receiving chiropractic treatment since 03/18/03. He also began active rehabilitation on 05/27/03, and entered a work hardening program on 06/23/03.

#### Requested Service(s)

Office visits and chiropractic manipulative treatment for dates of service from 08/11/03 through 11/03/03

#### Decision

It is determined that the chiropractic manipulative treatment from 08/11/03 through 11/03/03 was medically necessary to treat this patient's medical condition.

However, the office visits (99211) from 08/11/03 through 11/03/03, were not medically necessary to treat this patient's medical condition.

#### Rationale/Basis for Decision

It is beneficial to proceed to the rehabilitation phase of treatment (if warranted) as rapidly as possible and to minimize dependency on passive forms of treatment. Studies have shown a clear relationship between prolonged restricted activity and the risk of failure in returning to pre-injury status.

A portion of the active therapy was medically necessary since the medical records document that the patient obtained relief from the treatments, promotion of recovery was accomplished, and there was an enhancement of the employee's ability to return to employment. As such, the chiropractic manipulative treatment from 08/11/03 through 11/03/03 was medically necessary. However, the office visits (99211) from 08/11/03 through 11/03/03 were not medically necessary to treat this patient's medical condition.

Sincerely,